
MEMORANDUM OF AGREEMENT BETWEEN

THE STATE OF ARIZONA
THE STATE OF CALIFORNIA
THE STATE OF NEW MEXICO
THE STATE OF TEXAS

OPERATION JUMP START

Preamble

In response to a request for Department of Defense (DoD) support to the Department of Homeland Security Customs and Border Protection (USCBP), to enhance border enforcement along the southwest border, the Governors of the States of Arizona, California, New Mexico, and Texas (the Supported States) have agreed to accept National Guard forces from other States (the Supporting States) to perform duties in support of this border enforcement effort. The Chief, National Guard Bureau, will coordinate the provision of resources to the Supported States in furtherance of the border enforcement effort. Each Governor shall retain the authority to decline missions that will compromise his or her ability to respond to state emergency requirements.

Terms

The States, represented by their Governors, hereinafter known as the parties, agree that:

1. The Governor of the Supporting State will retain, for administrative purposes, command and control of Supporting State forces. The Governor of the Supported State, by and through the Adjutant General of the Supported State, will exercise operational control of all assigned, attached, or detailed forces.
2. The Supported State will not reimburse the Supporting State for any costs incurred in the performance of this agreement.
3. Supporting State forces will perform duties under 32 U.S.C. 502(a) and (f) in the Supported State in accordance with all applicable law, DoD, and Military Department regulations, policies, and authorities.
4. The terms and conditions of the Emergency Management Assistance Compact, P.L. 104-321 (1996), are incorporated herein by reference except those that relate to liability, emergency declaration, and reimbursement.
5. All parties agree that a necessary precondition to the deployment of National Guard forces and the disbursement of Operation Jump Start funds to a Supported State is the agreement of the Governor of the Supported State to use such forces and funds solely for missions that are requested by, coordinated with, and undertaken in support of, USCBP, and that are consistent with USCBP's concept of operations. Such missions will be pre-approved by DoD and the Governor of the Supported State, and consistent with the implementing

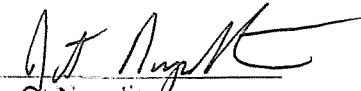
instructions communicated by the National Guard Bureau. Forces and Operation Jump Start funds may be used by the parties only in support of missions described in the two sentences immediately preceding, and no others. National Guard forces participating in Operation Jump Start will not be employed in a direct law enforcement role without the approval of the Secretary of Defense or his designee.

6. All National Guard forces participating in Operation Jump Start will comply with the Rules for Use of Force attached hereto.

7. All National Guard forces participating in Operation Jump Start are federal employees within the meaning of the Federal Tort Claims Act, 28 U.S.C. §§ 1346, 2671-2679, and are included within the coverage of its provisions.

8. This Memorandum of Agreement has effect from the date of signature of the ^{Supported and} Supporting State's representative.

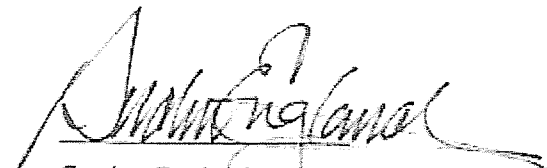
Agreed:


Janet Napolitano
Governor
State of Arizona
Date: June 1, 2006

Arnold Schwarzenegger
Governor
State of California

Bill Richardson
Governor
State of New Mexico

Rick Perry
Governor
State of Texas


Gordon England
Deputy Secretary of Defense
Department of Defense

ATTACHMENT TO
OPERATION JUMP START MOA

OPERATION JUMP START
REGIONAL RULES FOR THE USE OF FORCE
(RUF)

1. FORCE MAY BE USED IN:

- a. SELF-DEFENSE: You have the right to use the minimum force necessary to defend yourself.
- b. DEFENSE OF OTHERS: You have the right to use the minimum force necessary to defend others as you would defend yourself.

2. LEVELS OF FORCE:

a. MINIMUM FORCE: Guardsmen will consider and, if necessary, employ an escalating level of force. An escalation of force may not be possible under all circumstances; however, guardsmen will use only the minimum level of force necessary to control the situation and to defend themselves or others. The force used must be proportional to the threat. Force, whether non-deadly or deadly, will not be used in response to verbal provocation alone.

b. LEVELS OF FORCE:

(1) Non-Deadly Force:

(A) Non-deadly force is: Physical force or restraint that could not reasonably be expected to result in, or be capable of, causing death or serious bodily injury. When properly applied, non-deadly force, results in minimal or no risk of causing death or serious bodily injury.

(B) Levels of non-deadly force are:

- i. Show of Force (Presence of Guardsmen) The appearance of properly equipped and well-disciplined guardsmen may reduce potential for conflict.
- ii. Verbal Persuasion – firmly order persons to comply with your direction.
- iii. Defensive Techniques:
 - Order aggressor to the prone position;
 - Restraint tactics; and
 - Physical force that does not amount to deadly force.

(2) Deadly Force:

(A) Deadly force is: Physical force or restraint that could reasonably be expected to result in, or is capable of, causing death or serious bodily injury, whether or not death is intended. Deadly force means force that the guardsman intends to cause, believes will cause, or by the manner of its use is capable of causing, death or serious bodily injury. Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ

(B) Before using deadly force: Deadly force may be used only when **ALL THREE** of the following conditions are met:

1. When necessary, that is, when the guardsman has a reasonable belief that the subject of such force poses an imminent danger of death or serious bodily injury to the guardsman or to another person;
2. All other means have been exhausted or are not readily available, or the situation does not permit use of lesser force; **AND**
3. The use of deadly force does not unreasonably increase the risk of death or serious bodily injury to innocent bystanders.

Firing a weapon is always considered deadly force. WARNING SHOTS ARE NOT AUTHORIZED. When using deadly force, shoot to stop the threat. Deadly force will not be used solely to protect property. Deadly force may not be used solely to prevent the escape of a fleeing suspect.

3. ARMING ORDERS:

- a. Arming orders are not necessarily sequential. The Adjutant General of the Supported State, or his designee, will determine and may modify the arming order as the situation dictates.
- b. The Supported State Adjutant General, or his designee, may authorize deployment of National Guard personnel without weapons.

ARMING ORDER MATRIX

Arming order	Rifle	Pistol	Magazine	Chamber
AO-1	Sling	In Holster	Ammo Pouch	Empty
AO-2	Port*	In Holster	Ammo Pouch	Empty
AO-3	Port*	In Holster	In Weapon	Empty
AO-4	Port*	In Hand	In Weapon	Locked/Loaded

* Port arms is defined as having the rifle at the ready.

4. WEAPON LIMITATIONS:

- a. If required by the supported state, a locking plate must be installed on the M16 series/M-4 rifle to prevent automatic firing.
- b. Armed personnel must be trained, qualified, and tested on the type of weapon issued, in accordance with current qualification standards.
- c. Arms and ammunition will be secured at all times in accordance with appropriate regulations and policies.
- d. Except upon express order of the Supported State's Adjutant General, automatic weapons or shotguns will not be deployed.

e. Rounds will be chambered only on order of the Supported State's Adjutant General, or his designee. The Supported State Adjutant General may delegate this authority to any member of the force.

f. Privately owned ammunition or firearms will not be carried or used. Armor piercing rounds, expanding ammunition, and blank ammunition will not be issued or fired.

5. CHANGES TO RUF:

These RUF shall not be changed except upon order of the Supported States' Adjutants General.

ADDENDUM TO THE RULES FOR THE USE OF FORCE
CONTAINING SPECIAL ORDERS FOR ALL NATIONAL GUARD PERSONNEL
ENGAGED IN OPERATION JUMP START

1. These rules for the use of force will apply to all National Guard personnel in support of Operation Jump Start.
2. Carry out your assigned duties in a military manner and present a professional military appearance at all times. Be sure that everything you do reflects credit upon your state and country, the military service, your unit, and yourself. The standard uniform will be worn when the potential for interaction with the public exists. Exception to this will only be granted by the Supported State's Adjutant General, or his designee.
3. Respect the human rights of all persons. Be as courteous to all persons as possible under the circumstances. Do not mistreat anyone or withhold emergency medical attention from anyone needing it. Do not damage property unnecessarily.
4. Do not talk about this operation or pass on information or rumors about it to unauthorized persons. Refer all civilians, including members of the media, who ask for information about what you are doing to your commanding officer or to a public affairs officer.
5. Become familiar with these special orders and the rules for the use of force, and carry this information on your person at all times when engaged in border operations.
6. Pay careful attention to the specific orders, briefings and instructions you will be or have been given that relate to the specific border operation you will be supporting.
7. When the use of force is required, or any discharge of a weapon occurs (including accidental discharge), or when there is an injury or alleged injury, guardsmen will:
 - a. Secure and isolate the area
 - b. Administer first aid, request medical support, and evacuate casualties as necessary
 - c. Get unit status of personnel, weapons, and ammunition, if possible
 - d. Ensure initial reports have been sent to higher headquarters by quickest means
 - e. Get witness names and vital information from all involved personnel
 - f. Follow up with serious incident report
 - g. Make no statement to anyone except the following:
 - (1) Chain of command
 - (2) Military investigating officer
 - (3) Law enforcement officer